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DEPARTMENT OF LABOR AND INDUSTRIES
STATE OF WASHINGTON

BOARD OF BOILER RULES
BOARD MEETING
TRANSCRIPT OF PROCEEDINGS
Tuesday, September 21, 2004

BE IT REMEMBERED, that a Board of Boiler Rules board meeting was held at 10:00 a.m. on Tuesday, September 21, 2004, at the address of Labor & Industries regional office, 950 Broadway, third floor conference room 3, Tacoma, Washington before CHAIRMAN CRAIG HOPKINS and BOARD MEMBERS FAY DIETZ, KEN ESHLEMAN, STEVE BACON and SECRETARY/CHIEF BOILER & PRESSURE VESSEL INSPECTOR ROBB MARVIN

WHEREUPON, the following proceedings were held, to wit:

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EXCEL COURT REPORTING
16022-17th Avenue Court East
Tacoma, WA 98445-3310
(253) 536-5824

1 Tuesday, September 21, 2004
2 Tacoma, Washington

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1 PROCEEDINGS

2

3 CHAIRMAN HOPKINS: Welcome, everyone, to the
4 September 21st Board of Boiler Rules meeting. My name is
5 Craig Hopkins. I'm the Chair. We have with us the
6 Assistant Attorney General, Donna Emmingham. Thank you
7 for being here, Donna.

8 MS. EMMINGHAM: Thank you. I'm glad to be here.

9 CHAIRMAN HOPKINS: We have a number of guests here
10 today. We'll be sending around a sign-up sheet. I'd
11 appreciate it if you'd sign that. At certain times in
12 the meeting we'll be entertaining comments and questions
13 from guests here in the room.

14 When you do make a comment, please identify yourself
15 with your name before you make your comments for the
16 court reporter. Speak loudly and clearly.

17

18 MOTION

19

20 CHAIRMAN HOPKINS: We have an agenda that I think
21 everybody has in front of them, and I'll enter a motion
22 to accept the agenda as printed.

23 BOARD MEMBER ESHLEMAN: So moved.

24 BOARD MEMBER BACON: Second.

25 CHAIRMAN HOPKINS: Are there any comments, changes,

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1 additions?

2 If there are none, all in favor of accepting the
3 agenda as submitted say, "aye."

4 THE BOARD: Aye.

5 CHAIRMAN HOPKINS: Opposed? We have an agenda.

6

7 MOTION PASSED

8

9 Item 1. Review of minutes of May 17th and 18th

10

11 CHAIRMAN HOPKINS: The first item on the agenda is
12 the review of the Board of Boiler Rules minutes from May
13 18th. Those minutes have been made available to
14 everybody and have been posted on the Department's
15 website. Are there any changes or additions to be made
16 to those minutes?

17 Being that, I'll entertain a motion to accept those
18 minutes as submitted.

19

20 MOTION

21

22 BOARD MEMBER DIETZ: So moved.

23 BOARD MEMBER ESHLEMAN: Second.

24 CHAIRMAN HOPKINS: All in favor say, "aye."

25 THE BOARD: Aye.

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1 CHAIRMAN HOPKINS: Opposed? Okay. We have minutes.

2

3 MOTION PASSED

4

5 CHAIRMAN HOPKINS: The next item -- let see. What
6 did we have for under that first item, "Overview of new
7 process"?

8 SECRETARY MARVIN: That was to show you that we are
9 going to start with this type of a format. And the
10 people you see here to your left will be part of our
11 regular meetings and public hearings for the future. We
12 will combine our agenda meeting on one page, and it will
13 be this format for your use in the future. That's all.
14 The minutes for the public hearing meeting, though, will
15 be the minutes coming from that, the basic letters and
16 meetings held, minutes attached. And we'll use her, or
17 his, typewritten report.

18 CHAIRMAN HOPKINS: Great.

19 SECRETARY MARVIN: I figured that was the easiest
20 way to put it to them, word for word.

21 CHAIRMAN HOPKINS: Okay. Thank you.

22

23 Item 2. Bodycote IMT State Special Update.

24

25 CHAIRMAN HOPKINS: The second item on the agenda

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1 then is Bodycote IMT, Inc. State Special Update, and we
2 have received some handouts. I believe representatives
3 from the company are here. And you were not here
4 yesterday when we reviewed those documents, and so we
5 reviewed them the best we could without your input.

6 I think probably at this point the best thing to do
7 is for you to maybe explain to us why you are here today
8 and what you hope to achieve.

9 MR. PETERSON: I'm Henry Peterson from Bodycote.
10 Basically, we are asking for a change in time. The State
11 has asked us to come back and review these three vessels
12 through letters that were given to us originally when the
13 State let us bring these three vessels into the State of
14 Washington.

15 So, we're here, basically, to ask, can we extend
16 that time frame and not have to come back in five years.
17 Seeing how we operate the vessels, it will be some time
18 before we ever get to the life cycle of two of the
19 vessels, the 24-inch and the 64-inch units.

20 It will be 30-plus years before we get to the end of
21 their life based upon how we operate the units. The
22 17-inch unit is coming close to its end, and in the next
23 three years we'll reach that point and then we'll deal
24 with that with you at that time.

25 CHAIRMAN HOPKINS: Okay. You passed out to us today

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1 -- you provided to us various request approval letters
2 that were written by the Board of Boiler Rules as sent to
3 you originally, one dated February 19, 1997, for the
4 64-inch vessel.

5 MR. PETERSON: Yes.

6 CHAIRMAN HOPKINS: And then another letter dated
7 January 31st, 1996, for the 24-inch and the 17-inch.

8 MR. PETERSON: Correct.

9 CHAIRMAN HOPKINS: When we looked at the letter on
10 the 64-inch, we didn't see a time limit on that letter.
11 But I understand that you received a subsequent letter?

12 MR. PETERSON: Well, I didn't bring it with me, but
13 I have a letter from the State of Washington that says
14 that there was also a -- they wanted to review that
15 vessel in five years.

16 CHAIRMAN HOPKINS: And that was sent to you at the
17 time of the original letter or just recently?

18 MR. PETERSON: It was given to Mike Sullivan, who
19 was the chief engineer. It's old documentation, and I
20 failed to bring it with me.

21 CHAIRMAN HOPKINS: We'll just assume that --

22 SECRETARY MARVIN: I think it was around that time
23 period also.

24 CHAIRMAN HOPKINS: All right. Okay. I wish we had
25 that. All right.

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1 Why don't you explain to us, then, just briefly
2 about the change to the 17-inch vessel and the review
3 you've done on that. And we're assuming that the
4 documentation and the status the other two vessels is as
5 was originally approved?

6 MR. PETERSON: Yeah. The 64-inch vessel, there's
7 been no changes. It's as original as when it came into
8 the state, and we want to continue with that.

9 The original 24-vessel, I think about a year --
10 well, it's been longer than that -- it actually was
11 machined and we went through the process with Dick
12 Barkdoll and the past inspector. We went through design
13 engineering with it and basically did a machining on the
14 OD of it to remove corrosion from water jackets that were
15 the original cooling part of that vessel.

16 And then we continued on with the 17 vessel. And,
17 basically, we just finished that by taking a few
18 thousandths off the OD of the vessel, again, to remove
19 corrosion that was created by the water jacket that was
20 put on that vessel.

21 We felt that it would be better to remove the
22 corrosion so that we could get better testing on it. It
23 was difficult to do UT testing on the outside of it
24 because of the corrosion. So we went ahead and machined
25 it off, and Bart here went through the calculations and

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1 redid the calculations for us. So we knew what the
2 pressure rating of the vessel would be after we machined
3 it.

4 That information was put in there, in the
5 documentation, and now Bodycote's plan is to -- we do a
6 -- we don't do a wetwall jacket anymore, we do a drywall
7 clamp on, basically, so we don't have corrosion problems
8 in the future because we want to be able to make sure
9 that we can test the vessels to the best of our
10 abilities.

11 CHAIRMAN HOPKINS: Okay. So, you other board
12 members jump in any time you have questions. That brings
13 up two questions that I have.

14 The first is that, do we have any information on the
15 24-inch vessel with regard to how much was machined and
16 whether calculations were performed and available to us
17 to determine a new --

18 MR. PETERSON: I could get the Board a copy of that.
19 That's done through the State and the -- Bart
20 went through another company called EPSI, Engineer
21 Pressure Systems. They are back in Andover
22 Massachusetts. They went through and did the
23 calculations because they are a National Forge.

24 They were the original manufacturers of the vessels,
25 so we had them go through the calculations. They worked

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1 with us to do the machining. And in that process Dick
2 Barkdoll was involved and so was the -- I forgot his
3 name, the past State Board Inspector.

4 CHAIRMAN HOPKINS: George Black.

5 MR. PETERSON: Yeah. And he went through that and
6 the paperwork was submitted to them and they sent us back
7 a letter saying that it was okay. And we derated the
8 vessel. The vessel was originally rated at 30,000 PSI.
9 The vessel is now rated at 29,000 PSI.

10 We usually only operate at 27, and we decided to go
11 ahead and lower the level down to something that we could
12 deal with with our customers.

13 CHAIRMAN HOPKINS: Another question I had is when
14 you talk about the wetwall versus drywall, did that
15 impact the temperature of the walls during operation of
16 this material, and does that have an impact on MAWP?

17 MR. PETERSON: No, the original specifications on
18 the vessel say that the vessel won't exceed a certain
19 temperature. And when we -- companywide we did this at
20 Bodycote, not just in our Camas facility, but also in
21 Andover, Massachusetts and in Ohio. We have a plant
22 there with vessels.

23 And due to an accident in our Andover facility the
24 company went ahead and said we are going to take off all
25 the wetwall jackets and replace them with drywall. And

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1 an engineering firm was hired, and they went through and
2 did calculations to design the jackets. And we purchased
3 the jackets and put them on.

4 CHAIRMAN HOPKINS: The wall temperature is the same.

5 MR. PETERSON: The wall temperature is the same,
6 yeah. We wanted to make sure there wasn't any thermal
7 stresses that were added to the vessel.

8 CHAIRMAN HOPKINS: We have a pretty complete package
9 on the 17-inch. We have the 64-inch that has not
10 changed.

11 MR. PETERSON: Yes.

12 CHAIRMAN HOPKINS: But it seems like we don't have
13 full documentation on the 24-inch.

14 MR. PETERSON: I can get that to the State.

15 SECRETARY MARVIN: I have all the documentation as
16 far as UT & PT and everything that we keep on record at
17 the office.

18 MR. PETERSON: There was an original packet
19 submitted to the State when the vessel was brought into
20 the State of Washington. I can get you another copy of
21 that if the State can't find it.

22 We also have another document that was delivered to
23 us by EPSI who did the redesigns when the vessel was
24 machined, and that was also sent through and Dick
25 Barkdoll passed it. But I can get you another copy of

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1 that and send it to the Board if you want that.

2 BOARD MEMBER ESHLEMAN: Did the redesign go before
3 the Board of Boiler Rules, or was that sent to Dick
4 Barkdoll and he said -- continued -- he did the review?

5 MR. PETERSON: No. The documentation -- the
6 engineering, the EPSI, who has a PE on staff -- did the
7 design and said you can take "X" amount of thickness off
8 the wall and meet this criteria which we needed to meet.

9 All that documentation that showed what the vessel
10 would need to be derated was all given to Dick and he
11 passed it up to the State Boiler -- the chief boiler
12 inspector, because I have a letter coming back saying
13 that he acknowledge that and said that it was okay.

14 CHAIRMAN HOPKINS: Typically the way our process
15 works is when these various requests come forward, we
16 have a request to operate a vessel at a certain pressure
17 and certain conditions. We can review that and if we
18 choose to, make certain stipulations. I think we've got
19 pretty much all of that in the documentation from the
20 17-inch.

21 But unless you have something, it doesn't seem that
22 we really have enough to --

23 SECRETARY MARVIN: They are not asking for anything
24 on the other one as far as pressure or anything, only
25 inspection.

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1 CHAIRMAN HOPKINS: Derating?

2 SECRETARY MARVIN: I'm guessing.

3 BOARD MEMBER DIETZ: What was the condition for
4 derating, was it biannual or annual --

5 MR. PETERSON: The reason for the derating was
6 because we removed material off the OD of the vessel in
7 order to make it clean because it had corrosion on it
8 from the water jackets that had been clamped on.
9 And so in order to make it better for us to do the
10 testing we want to make sure that we can get proper
11 ultrasonics and stuff like that. We needed to clean the
12 OD of the vessel. So that was the original reason why we
13 machined it off so that we could do a better job of
14 testing it ourselves internally.

15 But if you need -- I have a copy if you guys want
16 this for the original documentation that was sent to Dick
17 Barkdoll from Engineer Pressure Systems that talks about,
18 you know, that the vessel was derated and this is what it
19 was downsized to. If you want that, we brought an extra
20 copy.

21 BOARD MEMBER ESHLEMAN: George Black must have felt
22 that due to the previous Board acceptance of the State
23 Special that a derating -- the derating change would not
24 have to go before the Board of Boiler Rules. That's the
25 only thing I can think of.

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1 SECRETARY MARVIN: Because we have a record.

2 BOARD MEMBER ESHLEMAN: A letter?

3 SECRETARY MARVIN: That something was done --

4 CHAIRMAN HOPKINS: Let me see what you have on that
5 24-inch.

6 MR. PETERSON: I don't have the original letter from
7 -- that was the response from Dick Barkdoll, but this was
8 a letter that was sent to the State explaining what we
9 had done.

10 Because we involved the chief. We called him up and
11 asked him what we needed to do in order to do this. And,
12 basically, he said we can work through Dick to make sure
13 that it happened properly.

14 CHAIRMAN HOPKINS: Do you think you have in your
15 file Dick's letter in response?

16 MR. PETERSON: I have a response -- I'm pretty sure
17 I have a response from Dick that said he acknowledged,
18 you know, that the State acknowledged that we were going
19 to derate the pressure.

20 CHAIRMAN HOPKINS: Down to 29,000?

21 MR. PETERSON: Yeah, and that I could go ahead and
22 continue operating the unit.

23 CHAIRMAN HOPKINS: Okay. This is the -- that's the
24 one that had the five-year limit. Okay.
25 So we have -- on the 17 and 24 we have the original

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1 variance acceptance -- request and acceptance. We have
2 then the -- on those two we have a subsequent request and
3 then somewhere in the files a response letter.

4 MR. PETERSON: Correct.

5 SECRETARY MARVIN: Prior to my time, yes.

6 CHAIRMAN HOPKINS: Prior to your time.

7 And then on the 17 we also have another machine issue.
8 So on these issues if we chose, we could -- we could
9 stipulate -- potentially review an acceptance by Robb of
10 the letter that was sent by the Department accepting at
11 that time the 29,000.

12 SECRETARY MARVIN: I would adhere to what the
13 previous chief has accepted myself. If you could make it
14 so that you just give me a copy of that letter for our
15 files.

16 CHAIRMAN HOPKINS: And then we have a package on the
17 17-inch. So why don't we -- why don't we go with those
18 two to accept them, those changes.

19 And the 60-inch hasn't changed. Robb and myself and
20 Tony have reviewed the NDT reports of the previous years,
21 and they are all in record. Okay.

22 BOARD MEMBER DIETZ: What is the request for the
23 64-inch? What are you asking?

24 MR. PETERSON: Basically, I'm asking that the --
25 in the original letter from the State it stated that I

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1 needed to bring the vessel back to you for rereview in
2 five years. And I'm asking can I extend it to ten or
3 beyond that.

4 CHAIRMAN HOPKINS: That was the original letter.
5 She's is talking about the 64-inch.

6 MR. PETERSON: There was another letter. I got a
7 letter that said, yeah, that I was supposed to bring it
8 to you in five years.

9 CHAIRMAN HOPKINS: And do you have any information
10 on that, data reports or anything that -- to demonstrate
11 what the original design pressure was?

12 MR. PETERSON: It's in the --

13 SECRETARY MARVIN: I have all the original design
14 information on the 64-inch vessel that we have.

15 CHAIRMAN HOPKINS: In that file.

16 SECRETARY MARVIN: I also have those NDE reports
17 over the previous years. This is the only State Special
18 I know of that is required to come back in a five-year
19 period as long as they don't do anything on like the
20 17-inch vessel and continue that the insurance inspector
21 and State inspector will verify the NDE being
22 operational.

23 CHAIRMAN HOPKINS: Okay. We're going to confer
24 about this. It's still part of the open meeting, but I'm
25 not sure that it's necessary that we document this.

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1 Because there is going to be a lot of conversation going
2 back and forth. Maybe we could --

3 MS. EMMINGHAM: Would you like to go into executive
4 session?

5 CHAIRMAN HOPKINS: Or just -- can we do a short
6 recess at which point we'll discuss?

7 MS. EMMINGHAM: I think to speak in private just
8 amongst the four, you have to go into executive session.

9 CHAIRMAN HOPKINS: Okay. All right. We'll go into
10 executive session for about five or ten minutes. You are
11 not required to leave the room. You can listen in, but
12 we are just going to be kind of going back and forth.

13 MR. MAKADIA: Before we disperse, let me say
14 something. My name is Bart Makadia. I was hired to do
15 the 17-inch vessel as far as doing the complete ASME
16 division 2 calculation as required by the letter from the
17 State.

18 You talk about the 24-inch as far as documentation.
19 The 17-inch vessel just gone through ASME code calcs and
20 derating. Same thing was done a couple of years ago, and
21 ASME code calcs were also performed in accordance with
22 the vessel too. And I have reviewed the package that was
23 just given to you.

24 CHAIRMAN HOPKINS: Which package?

25 MR. MAKADIA: That package.

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1 CHAIRMAN HOPKINS: You reviewed the 24-inch?

2 MR. MAKADIA: I just kind of reviewed that one even
3 though I didn't perform it. When I was doing 17-inch, I
4 had gone through the package. And this vessel, for the
5 benefit of this committee, 24-inch vessel originally was
6 designed in accordance with Division 2, of course, and
7 was operated in the State of Oregon.

8 And the State of Oregon had required, before it went
9 to commissioning, had required an extensive NDE including
10 technical testing of the material. And I have this
11 package from that era, what I call it. And I believe the
12 State has that one also. There's an awful lot of
13 documentation on the 24-inch.

14 CHAIRMAN HOPKINS: In your review you said that you
15 reviewed the package on the 24-inch. Did you review the
16 Division 2 calculations?

17 MR. MAKADIA: Yes.

18 SECRETARY MARVIN: They have been very helpful in
19 helping us restore our files from what we were missing.

20 CHAIRMAN HOPKINS: And do you agree with the
21 calculations as submitted on the 24-inch?

22 MR. MAKADIA: My purpose -- my purpose was not to
23 submit 24-inch because it was already done a couple of
24 years ago; it was just to review.

25 CHAIRMAN HOPKINS: Right. Did you see any

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1 discrepancy --

2 MR. MAKADIA: I did not see any discrepancy.

3 CHAIRMAN HOPKINS: -- or deficiencies?

4 MR. MAKADIA: No.

5 CHAIRMAN HOPKINS: In your opinion was it a complete
6 review?

7 MR. MAKADIA: Yes.

8 MR. HOPKINS: Okay. Thank you for those comments.

9 (Whereupon executive session
10 was held from 10:33 to 11:01
a.m.)

11 CHAIRMAN HOPKINS: Executive session is now ended
12 and we are continuing with our agenda item No. 2, which
13 pertains to Bodycote IMT Incorporated State Special
14 variance request.

15 And do I have a motion on this item?

16

17 MOTION

18

19 BOARD MEMBER BACON: Yes. I would like to make a
20 motion. It will consist of the following on the --
21 relative to the 17-inch and 24-inch vessels under
22 discussion.

23 On the first portion of it we could extend the
24 January 31st, 1996, variance request approval letter with
25 the following conditions: Removal of the fifth-year

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1 variance reevaluation requirement that is listed in Item
2 5 of that letter.

3 Establish a MAWP, which is the maximum allowable
4 working pressure of 14,950 PSIG on the 17-inch vessel.
5 Third point, establish a maximum allowable working
6 pressure of 29,000 PSIG on the 24-inch vessel subsequent
7 to the chief inspector's review of the department's
8 response to the January 29, 2001, variance reanalysis.
9 Fourth point, provide annual internal and external
10 evaluation reports to the chief inspector on both
11 vessels. Let me rephrase that.

12 The fourth point again, provide annual internal and
13 external PT or MT, which is magnetic particle testing or
14 liquid bent testing evaluation reports to the chief
15 inspector penetrant on both vessels.

16 Fifth point, install or verify the proper ASME code
17 pressure reading devices are installed and set at or
18 below the vessel's maximum allowable working pressure.
19 Sixth point, at any time that future machining is
20 performed on the pressure vessels, this variance must be
21 reevaluated by the Board of Boiler Rules.

22 CHAIRMAN HOPKINS: Is there a second?

23 BOARD MEMBER DIETZ: I'll second.

24 CHAIRMAN HOPKINS: Okay. Are there any comments?

25 MR. PETERSON: Works for us.

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1 CHAIRMAN HOPKINS: Any comments, questions,
2 modifications? Okay. There being no comments or
3 proposed changes or objections, we will vote the
4 following motion:

5 We extend the January 31, 1996, variance request
6 approval letter with the following conditions:
7 No. 1, removal of the fifth-year variance reevaluation
8 requirement in Item No. 5 of the letter.

9 Item No. 2, establish an MAWP, or maximum allowable
10 working pressure of 14,950 pounds per square inch on the
11 17-inch vessel.

12 Item No. 3, establish an MAWP or maximum allowable
13 working pressure of 29,000 pounds per square inch on the
14 24-inch vessel, subject to the chief inspector's review
15 of the Department's response to the January 29th, 2001,
16 variance reanalysis.

17 Item No. 4, provide annual internal and external
18 magnetic particle testing or liquid penitent testing
19 evaluation report to the chief inspector on both vessels.

20 Item No. 5, install or verify the proper ASME code
21 pressure-relieving devices are installed and set at or
22 below the vessels' maximum allowable working pressure.

23 Item number 6, at any time that future machining is
24 performed on the pressure vessels this variance must be
25 reevaluated by the Board.

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1 All in favor of the motion say "aye."

2 THE BOARD: Aye.

3 CHAIRMAN HOPKINS: Opposed or "nay"? The motion
4 passes.

5

6 MOTION PASSED

7

8 CHAIRMAN HOPKINS: With regard to the 64-inch
9 vessel, we don't have before us the letter that required
10 you to come back before the Board and are not aware of
11 any particular reasons for that letter being sent to you.

12 So what we propose to do is merely to authorize the
13 chief inspector to consider that variance request as
14 still approved. However, we would like to make that
15 subject to the chief inspector's review of the letter
16 that you received from a previous chief requiring,
17 potentially, a time limit.

18 So if you could provide that letter to Robb, he'll
19 review it, and unless he sees something significant in
20 the letter that might bring some element of concern up,
21 he'll just continue with the existing variance request
22 approval.

23 MR. PETERSON: Okay.

24 CHAIRMAN HOPKINS: Sound reasonable?

25 MR. PETERSON: Yeah.

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1 CHAIRMAN HOPKINS: Robb, is that okay? Is that what
2 you wanted to hear from the Board?

3 SECRETARY MARVIN: That's fine.

4 CHAIRMAN HOPKINS: Okay. We're done. Thanks. And
5 by the way, that was a nice report.

6 MR. PETERSON: Thank you.

7 CHAIRMAN HOPKINS: We appreciate it. It was very
8 thorough. Good luck.

9 MR. MAKADIA: Thank you.

10 SECRETARY MARVIN: What she is handing you now is
11 some of the WAC changes in regards to WAC 296-104-701 and
12 from the American Insurance Association and they kind of
13 echo Ken's words several sessions ago.

14

15 Item No. 3 Boiler Licensing Statewide

16

17 CHAIRMAN HOPKINS: Our next item on the agenda
18 pertains to an item that was brought up yesterday in
19 study session involving a request that the Board consider
20 boiler licensing standards statewide. And some
21 discussion ensued subsequent to that comment, and issues
22 were raised as to whether or not the Board had the -- was
23 within its authority to require that or even to consider
24 it as a requirement.

25 So we have asked the Assistant Attorney General

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1 Donna Emmingham to review the RCWs and give us a
2 determination as to whether or not this was within our
3 scope. So until we receive further information, there
4 doesn't seem to be any reason to discuss that item any
5 further. We all agree?

6 BOARD MEMBER ESHLEMAN: The only condition on that
7 is in consideration for that to go through it wouldn't
8 start until 2005 at the very earliest.

9 CHAIRMAN HOPKINS: Oh, you mean if the requirement
10 was made.

11 BOARD MEMBER ESHLEMAN: If we started on that
12 process.

13 CHAIRMAN HOPKINS: Right. However, at this point we
14 don't even know if we are going to though, so that was
15 primarily -- item No. 3 is primarily for informational
16 purposes at this point.

17

18 Item No. 4 CR102 WAC Rules - Final Review/Vote
19

20 CHAIRMAN HOPKINS: The next agenda item, No. 4,
21 involves the CR102 WAC rules proposed changes. They have
22 -- the changes have been posted on the Department's
23 website for the required period of time. We have
24 solicited public comment on those items, and today we
25 will entertain additional comments and review the written

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1 comments that we have received. And if the Board
2 desires, we will vote to accept or reject those rule
3 changes.

4 I guess -- before us we received a written comment
5 this morning. So maybe we'll take a moment -- the board
6 members can take a moment to review that.

7 We have proposed a number of WAC rule changes and
8 some renumbering, many for which we received no comments
9 and there are no changes to with regard to how they have
10 been listed on the website, posted on the website.

11 So I think that what we will do for discussion
12 purposes here is only discuss those items that either we
13 have received comments on or we are proposing slight
14 editorial changes on -- or not even editorial;
15 typographical changes. And we'll just follow the
16 numerical order as presented in the Board package Section
17 4.

18 First item is 010, and there were no changes on
19 that.

20 BOARD MEMBER ESHLEMAN: There was. On WAC
21 296-104-010 for hot water heaters there was a typo in the
22 middle of the paragraph. All vessels must be -- and we
23 had "fabricated and listed by" and "fabricated and"
24 should not be in there. So that basic paragraph says,
25 "Hot water heaters shall mean a closed vessel designed to

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1 supply hot water for external use to the system. All
2 vessels must be listed by a nationally recognized testing
3 agency and shall be protected with an approved
4 temperature and pressure safety release valve and shall
5 not exceed any of the following limitations." And there
6 are basically five bullet items on that, but none of
7 those have changed.

8 CHAIRMAN HOPKINS: So we, in our discussions
9 yesterday, determined that that "fabricated with" was
10 typographical, and we will be proposing that that be
11 eliminated.

12 Okay. The next change was on 100.

13 SECRETARY MARVIN: It is WAC 296-104-100.

14 CHAIRMAN HOPKINS: WAC 296-104-100.

15 BOARD MEMBER ESHLEMAN: What about 50?

16 CHAIRMAN HOPKINS: Was there changes to 50 also?

17 BOARD MEMBER ESHLEMAN: Uh-huh.

18 CHAIRMAN HOPKINS: Yeah, we didn't make any changes
19 yesterday.

20 BOARD MEMBER ESHLEMAN: Oh, okay. Okay. Changes
21 only. I'm sorry.

22 CHAIRMAN HOPKINS: I don't think there is a reason
23 to review each one of those, just those that we made a
24 change on.

25 So, again, looking at WAC 296-104-100, which is

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1 contained on page 6 of the handout -- Steve, I think you
2 got a comment.

3 BOARD MEMBER BACON: There is a typographical
4 editorial change needed on WAC 206-104-100. And that
5 would be under -- on page 6 of CR102, under 4. Section
6 4.

7 SECRETARY MARVIN: Section 5.

8 BOARD MEMBER BACON: Section 5. I'm sorry. Section
9 5(b)iii or -- or ii.

10 SECRETARY MARVIN: Just two.

11 BOARD MEMBER BACON: Let me restate that. Section
12 5(b)ii. And it is referring to TAPPI TIP 0402-16 and it
13 currently states "1999 edition." That should state "2001
14 edition." And that is the only change from the published
15 CR102 for WAC 100.

16 Shall I continue?

17 CHAIRMAN HOPKINS: Yes, because the -- yes. Go
18 ahead and continue.

19 BOARD MEMBER BACON: The next change, editorial
20 typo, is in WAC 296-104-200 section 4. The NFPA 85 of
21 boiler and combustion systems code currently says "2001."
22 That should say "2004."

23 That would be the 2004 edition for use with boilers
24 with fuel input ratings and scratch the word "over" and
25 replace it with the word "of" 12,500,000 BTU/hr. Insert

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1 the words "or greater." Those are the changes.

2 CHAIRMAN HOPKINS: Okay. Let's see. I think we had
3 a public review comment on that, didn't we, that we
4 should just address.

5 SECRETARY MARVIN: It came from Bill.

6 CHAIRMAN HOPKINS: We'd like to address a public
7 review comment on that item which was WAC 296-104-200
8 which we received from Mr. Bill Gill, Longview Fiber. He
9 actually -- his comments actually led to two those
10 changes in that WAC that Steve Bacon just read.

11 Additionally, he raised a concern that NFPA 85
12 contained requirements that go beyond new construction
13 requirements. And he was concerned that those
14 requirements and NFPA 85 might be then deemed as required
15 within our rules.

16 It is the Board's position that the adoption of NFPA
17 85 is only for construction standards, and elements in
18 that document that would pertain to operations or testing
19 that are beyond construction standards would not be
20 applicable. And we did not feel, then, that further
21 clarification was required since that document is only
22 addressed in the construction WAC.

23 I'd also like to make a comment on a public review
24 comment received from the same Bill Gill which has to do
25 with WAC 296-104-100, and it was his comment that pointed

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1 out that we were referencing the incorrect addition of
2 the TAPPI document.

3 The next item that we have a typographical change on
4 is the WAC 296-104-701. And we have at least one written
5 comment on that.

6 BOARD MEMBER ESHLEMAN: Initially this was listed
7 item No. 2 -- item No. 2 which addresses -- initially
8 addressed the -- I believe it's the "Insurance company."
9 But we changed that after the fact to the inspection
10 agency responsible for the "Inservice inspector of a
11 boiler or unfired pressure vessel." So the change was to
12 the inspection agency.

13 CHAIRMAN HOPKINS: Okay. And then we had a -- so
14 there's no change -- no change from what's been most
15 recently posted on the Department's website. And we
16 received a comment from --

17 SECRETARY MARVIN: This change is not on the
18 website.

19 CHAIRMAN HOPKINS: Oh, it's not? Excuse me. I'm
20 sorry. So the website contains the words --

21 BOARD MEMBER ESHLEMAN: Insurance company.

22 SECRETARY MARVIN: Insurance company. And the
23 proper term is inspection agency, which, the draft you
24 have shows that now, but it's not on the website.

25 CHAIRMAN HOPKINS: We view that purely as

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1 typographical?

2 SECRETARY MARVIN: Correct.

3 CHAIRMAN HOPKINS: However, we received a comment
4 this morning from the American Insurance Association.
5 And I guess to summarize their concern would be that the
6 changes we are proposing in that WAC include the ability
7 of the Department to fine an inspection agency for
8 failure to file a report in a timely manner.

9 SECRETARY MARVIN: Three items.

10 CHAIRMAN HOPKINS: Yeah, three items. But I think
11 that their concern was primarily that, wasn't it?

12 SECRETARY MARVIN: Yes, it's also, if I might, It's
13 the same concern that our member, Mr. Ken Eshleman, had
14 brought up several meetings ago of their concerns. And I
15 see that there could be a possibility of somebody in my
16 position using that power, so to speak, to generate money
17 for the Department of Labor. It's not the intent to do
18 this. It's there to be used merely as a tool to help us
19 along like No. 1 in the same WAC 701. I don't want to
20 say we'll never use it, but it's not the intent. It's a
21 tool to help us out and give us some leverage in getting
22 things done.

23 CHAIRMAN HOPKINS: Are there any questions or
24 comments?

25 I'll ask one question of you, Robb, in the letter

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1 from the AIA they say that rather than fining, you could
2 potentially achieve the same results by working through
3 the AIA.

4 SECRETARY MARVIN: I'm familiar with all of these
5 gentlemen. I've met each one of them personally. I meet
6 with them on a regular basis, and I have tried this. I
7 am hoping that this tool here will be something that I
8 can use to go to an insurance agency and state that, you
9 know, you have missed the reports for "X" amount. Your
10 fine is potentially "X" amount of dollars. And it would
11 be a bigger stick to carry, so to speak. In the past
12 there was nothing I could do. It was like too bad.

13 CHAIRMAN HOPKINS: So you have in the past --

14 SECRETARY MARVIN: I've tried every insurance
15 company that we deal with in the State of Washington.

16 CHAIRMAN HOPKINS: And the AIA.

17 SECRETARY MARVIN: They represent each insurance
18 company.

19 CHAIRMAN HOPKINS: And you continue to have --

20 SECRETARY MARVIN: I continue to have problems.

21 CHAIRMAN HOPKINS: Any other comments about this AIA
22 letter?

23 BOARD MEMBER ESHLEMAN: One quick thing. If the
24 Board does proceed on this, we're asking about the
25 possibility -- oh, they indicate they would rather see

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1 the article address demonstrated pattern of practice of
2 noncompliance.

3 I think that was brought before the Board and it was
4 felt at that time that was too broad, too gray of an
5 area. And that the attorney general -- how would you
6 redefine that? So that was addressed also.

7 SECRETARY MARVIN: I would ask the Board or anybody
8 else to take a look at this over the next year's period
9 and see how it is being used or not used to determine
10 whether something like that needs to be put in. And it
11 is so broad. What is "Pattern of practice and
12 determinations"?

13 I don't want that to be brought up -- six times you
14 do it wrong or once or -- I don't think it will be used,
15 but I think it is a tremendous leverage tool to help the
16 Department out getting reports and red tags and various
17 other items taken care of.

18 CHAIRMAN HOPKINS: And there is an appeal process,
19 of course.

20 SECRETARY MARVIN: There is an appeal process, which
21 is also rewritten in these new WAC rules that should be
22 helpful to them and anyone else.

23 CHAIRMAN HOPKINS: Okay. Are there any other
24 written comments that were received by the Department
25 that we haven't addressed here? Or are there any

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1 comments from the public in attendance here today on any
2 of the WAC -- proposed WAC rule changes?

3 SECRETARY MARVIN: There's no more written comments
4 that came to the Department.

5 CHAIRMAN HOPKINS: Mr. Gill.

6 MR. GILL: Chairman Hopkins and the Board, for the
7 record, my name is Bill Gill with Longview Fiber Company.
8 I'd just like to express my appreciation today, for the
9 record, for your work and effort and evaluation that you
10 put in over the past year for these proposed WAC rule
11 changes. I would recommend an affirmative action on
12 these rule changes as listed today and as further
13 clarified today.

14 Thank you very much for allowing me to speak, and
15 also thank you again for your efforts and hard work.

16 CHAIRMAN HOPKINS: Thank you.

17 Okay. I believe that we've given the public
18 opportunity to express any additional comments. And so
19 -- do we close the public hearing at this point, or do we
20 go ahead and proceed with the vote.

21 MS. EMMINGHAM: I believe you go ahead and proceed
22 with a vote, Mr. Chairman.

23 CHAIRMAN HOPKINS: Do we have somebody that's
24 prepared to make a motion on these items?

25

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1 MOTION

2

3 BOARD MEMBER ESHLEMAN: I'll go ahead and move that
4 the changes specified in the CR102 be approved.

5 CHAIRMAN HOPKINS: Along with the changes.

6 BOARD MEMBER ESHLEMAN: Along with the changes as
7 we've discussed.

8 CHAIRMAN HOPKINS: Is there a second?

9 BOARD MEMBER DIETZ: I'll second.

10 CHAIRMAN HOPKINS: Is there any additional
11 discussion? There being none I will bring the motion to
12 a close and I will restate what we are voting on.
13 We are voting on approving the WAC rule changes as
14 published in the CR102 and as posted by the Department
15 for public review with the following changes:

16 The first change being to WAC 296-104-0101 under the
17 definition of "hot water heater" deleting the words
18 "fabricated and."

19 The next change is to WAC 296-104-100 the change
20 being to item No. 5(b)ii, towards the end of that
21 paragraph changing the edition from 1999 to 2001.

22 The next change would be to WAC 296-104-200. That change
23 is to item No. 4 which states NFPA 85 boiler and
24 combustion systems hazards code we would delete the year
25 "2001" and insert the year "2004." Then further on in

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1 that paragraph states "with fuel input ratings" we'd like
2 to, after the word ratings, delete the word "over" and
3 insert the word "of." It then states 12,500,000 BTU/
4 hour. We would insert the words "or greater."

5 The next item is WAC 296-104-701 item No. 2. Starts
6 with the word "the" after the word "the" delete the words
7 "insurance" and insert the word "inspection."

8 SECRETARY MARVIN: That one has already been
9 corrected to read.

10 CHAIRMAN HOPKINS: Okay.

11 BOARD MEMBER BACON: I have one quick comment on
12 701, a possible editorial or typo, referencing
13 "Performing resetting, repair or restamping of safety
14 valves, safety relief vales, or rupture discs, without
15 meeting requirements of WAC 296-104-515." That should
16 say 520. If you refer back --

17 SECRETARY MARVIN: Oh.

18 BOARD MEMBER BACON: Do you agree, Robb?

19 SECRETARY MARVIN: Yes. We changed some numbers,
20 and that's one we missed.

21 CHAIRMAN HOPKINS: Is that -- yes, okay. So if you
22 would restate your motion, Steve, and we'll get a second
23 to agree with that change.

24 BOARD MEMBER BACON: Do you want me just to restate
25 it -- that was Ken's motion.

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1 CHAIRMAN HOPKINS: Oh, was it?

2 BOARD MEMBER BACON: Just the reference itself.

3 CHAIRMAN HOPKINS: Right. Would the motioner care
4 to change its motion?

5 BOARD MEMBER ESHLEMAN: I change my motion to take
6 into account a change that WAC 701 -- 296-104-701 the
7 article that reads "Performing resetting, repair or
8 restamping of safety valves, safety relief valves, or
9 rupture discs without meeting requirements of WAC
10 296-104-515." And the change, instead of 515 it should
11 be 520.

12 BOARD MEMBER DIETZ: Where is it?

13 BOARD MEMBER ESHLEMAN: Page 17.

14 CHAIRMAN HOPKINS: No, you need to go by this.

15 BOARD MEMBER ESHLEMAN: Yeah, but that's -- Okay.
16 Excuse me. Excuse me. Restate it again?

17 CHAIRMAN HOPKINS: What should be the correct WAC
18 number?

19 BOARD MEMBER BACON: 520.

20 BOARD MEMBER DIETZ: It says 502 right now down
21 below that.

22 CHAIRMAN HOPKINS: Oh, okay. So, the motioner has
23 pointed out that we have the wrong WAC rule identified
24 under performing resetting, repair restamping of a safety
25 valves, safety relief valves, or rupture discs without

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1 meeting requirements of WAC 296-104 -- it says 515 and
2 there is a suggestion that maybe that should be 520.

3 BOARD MEMBER ESHLEMAN: It should be.

4 CHAIRMAN HOPKINS: So, Faye, you'll be the seconder?

5 BOARD MEMBER DIETZ: Yes, I'll second.

6 CHAIRMAN HOPKINS: Do you agree with that change?

7 BOARD MEMBER DIETZ: Yes.

8 CHAIRMAN HOPKINS: Then I will not read again the
9 entire motion, however, I am accepting the change in WAC
10 296-104-701 under the section which states, Performing
11 resetting, repair or restamping of safety valves, safety
12 relief valves, or rupture discs, without meeting
13 requirements of WAC 296-104 -- that should be 520."
14 That was just a typographical error in reference to the
15 appropriate WAC. Thank you, Steve.

16 All in favor of the changes say, "aye."

17 THE BOARD: Aye.

18 CHAIRMAN HOPKINS: Those opposed say, "nay." They
19 are approved. Thank you very much.

20

21 MOTION PASSED

22

23 CHAIRMAN HOPKINS: I believe that does end the
24 public hearing portion of our meeting. Thank you all for
25 participating.

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1 SECRETARY MARVIN: I'd like her to type in if we can
2 decide on dates for next year.

3 (Whereupon the public portion
4 of the meeting concluded.
5 Discussion was held off the
6 record.)

7 CHAIRMAN HOPKINS: We'll do the proposed dates. We
8 are talking about January.

9 SECRETARY MARVIN: One thing that I think might make
10 it easier for you, or maybe not, is it does not have to
11 start or be on Mondays and Tuesdays.

12 BOARD MEMBER DIETZ: Which is better.

13 SECRETARY MARVIN: It's better?

14 BOARD MEMBER DIETZ: Yes.

15 CHAIRMAN HOPKINS: Not to be Monday?

16 BOARD MEMBER DIETZ: Yeah.

17 CHAIRMAN HOPKINS: Yeah, I would prefer Tuesday and
18 Wednesday.

19 BOARD MEMBER BACON: Tuesday and Wednesday, I think,
20 would be better.

21 SECRETARY MARVIN: Is there a possibility you might
22 consider an earlier time? Like --

23 CHAIRMAN HOPKINS: Well, particularly, I think,
24 let's move it to a Tuesday.

25 SECRETARY MARVIN: I'm only looking at an hour
earlier. Instead of 10:00, 9:00.

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1 CHAIRMAN HOPKINS: Well, for me personally, 10:00
2 worked great because we were starting on Mondays. It
3 gave me time to get into the office and kind of get all
4 the information together. If it's moved to Tuesday, then
5 it's easier to get that done on Monday.

6 BOARD MEMBER BACON: I don't have a problem other
7 than I would probably come down the night before. So
8 there is a slight increase to the State.

9 SECRETARY MARVIN: There's no problem. No problem.

10 CHAIRMAN HOPKINS: Let's --

11 SECRETARY MARVIN: Let's see. January 18th and
12 19th, which is a Tuesday and Wednesday.
13 The next one we have to do is March 22, 23.

14 CHAIRMAN HOPKINS: Okay.

15 BOARD MEMBER BACON: Is that also a Tuesday,
16 Wednesday.

17 SECRETARY MARVIN: Correct.
18 May 24, 25.

19 September. I'm just taking the third weeks, so 20
20 and 21.

21 CHAIRMAN HOPKINS: Now, in May the third week would
22 be the week before. That's what I was trying to figure
23 out.

24 SECRETARY MARVIN: May 24 -- oh.

25 CHAIRMAN HOPKINS: Yeah, 17, 18 would be the week.

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1 Actually, March also we picked the fourth week.

2 BOARD MEMBER ESHLEMAN: It should be 15, 16.

3 SECRETARY MARVIN: That's fine.

4 So March 15, 16; May 17, 18; September 20, 21, and
5 November 15, 16.

6 CHAIRMAN HOPKINS: Let's put in March before we go
7 back to -- let's finish November before we --

8 When is Thanksgiving, the 24th?

9 BOARD MEMBER DIETZ: Yes.

10 SECRETARY MARVIN: We'll switch March back to the
11 22nd and 23rd.

12 CHAIRMAN HOPKINS: Okay. And that's because of the
13 annual WSBIA meeting.

14 SECRETARY MARVIN: These aren't in stone. If you
15 figure out there is something that you have, we'll work
16 around it.

17 CHAIRMAN HOPKINS: January, we need to check on. So
18 if we have those dates, Board members can review their
19 schedules and get an e-mail off to Robb.

20 SECRETARY MARVIN: November would be 8th and 9th, if
21 that works out.

22 CHAIRMAN HOPKINS: The 8th and 9th? Why is that?

23 SECRETARY MARVIN: She's gone. I need help. And
24 the third week is Thanksgiving.

25 CHAIRMAN HOPKINS: What day are you gone now?

1 MS. GIBSON: I'm gone --
2 SECRETARY MARVIN: All week.
3 MS. GIBSON: Yeah.
4 SECRETARY MARVIN: She hasn't turned it in yet.
5 CHAIRMAN HOPKINS: The whole week?
6 MS. GIBSON: Yes.
7 CHAIRMAN HOPKINS: Okay. November 8 and 9.
8 SECRETARY MARVIN: And I'll copy you on all this
9 too.
10 CHAIRMAN HOPKINS: And just so there's no confusion,
11 let's review the dates for this coming November.
12 SECRETARY MARVIN: Is the --
13 CHAIRMAN HOPKINS: I have the 15th and 16th.
14 SECRETARY MARVIN: Yes.
15 BOARD MEMBER DIETZ: At 9:00?
16 CHAIRMAN HOPKINS: It's already published at 10:00.
17 We are going to try to get this location?
18 SECRETARY MARVIN: Yes. It's convenient to all of
19 you.

20 (Whereupon the meeting
21 adjourned at 11:55 a.m.)
22
23
24
25

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
County of Mason)

I, the undersigned Certified Court Reporter and an Officer of the Court, under my commission as a Notary Public in and for the State of Washington, do hereby certify:

That the foregoing deposition transcript of the witness named herein was taken stenographically before me and transcribed under my direction; that the transcript is a full, true and complete transcript of the proceedings, including all questions, objections, motions and exceptions of counsel, made and taken at the time of the foregoing proceedings, to the best of my abilities;

That I am not a relative, employee, attorney or counsel of any such party to this action or relative or employee of any such attorney of counsel, and that I am not financially interested in the said action or the outcome thereof;

That the witness, before examination, was by me duly sworn, and the transcript was made available to the witness for reading and signing upon completion of transcription, unless indicated herein the waiving of signature.

IN WITNESS WHEREOF, I have hereunto set my hand on
this 4th day of October, 2004, at Shelton, Washington.

NOTARY PUBLIC in and for the
State of Washington, residing
at Shelton. License #1911